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LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
PATRICK J. COUGHLIN (111070)  
CHRISTOPHER M. BURKE (214799)  
ELISABETH A. BOWMAN (147393)  
MARY LYNNE CALKINS (212171)  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)  
patc@lerachlaw.com  
chrisb@lerachlaw.com  
mcalkins@lerachlaw.com  
lisab@lerachlaw.com

SCHRAG & BAUM, P.C.  
THOMAS F. SCHRAG (39377)  
JAMES S. BAUM (52202)  
280 Panoramic Way  
Berkeley, CA 94704  
Telephone: 510/849-1618  
510/841-6050 (fax)  
tom@schragsbaum.com  
jim@schragsbaum.com

TYLER R. MEADE (160838)  
MICHAEL L. SCHRAG (185832)  
1816 Fifth Street  
Berkeley, CA 94710  
Telephone: 510/843-3670  
510/843-3679 (fax)  
tyler@meadeschrag.com  
michael@meadeschrag.com

MEADE & SCHRAG LLP  
Attorneys for Plaintiffs

[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ANDREW T. PIÑON, et al., On Behalf of )  
Themselves and All Others Similarly Situated, )  
Plaintiffs, )  
vs. )  
BANK OF AMERICA, N.A., et al., )  
Defendants. )

No.  
C-07-0634-SBA  
REVISED STIPULATION ORDER TO  
CONSOLIDATE RELATED ACTIONS

WHEREAS, on January 31, 2007, the Piñon plaintiffs<sup>1</sup> filed the first of these four similar actions against Bank of America, N.A., Bank of America Corp., Capital One Financial Corp., Chase Bank USA, N.A., JP Morgan Chase & Co., Citibank, N.A., Citigroup Inc, Washington Mutual, Inc., HSBC North American Holdings, Inc., HSBC Finance Corp., and Wells Fargo & Company (collectively, the “Defendants”), in the Northern District of California, alleging violations of the National Bank Act (12 U.S.C. §§85-86), the Sherman Act (15 U.S.C. §1), §17200 of the California Business and Professions Code, the California Consumers Legal Remedies Act, the Cartwright Act, and for breach of the covenant of good faith and fair dealing and unjust enrichment;

WHEREAS, three additional class actions were filed in this District against the same Defendants alleging substantially the same facts and causes of action. On February 6, 2007, Celeste Brackley, represented by Scott & Scott LLP, filed Case No. C-07-0772-SBA against Bank of America, N.A., *et al.* (the “Brackley” action); on February 27, 2007, the Gonzales plaintiffs<sup>2</sup> represented by Hulett Harper Stewart LLP (“Hulett Harper”), filed Case No. C-07-1113-SBA against Bank of America, N.A., *et al.* (the “Gonzales” action); and on March 6, 2007, Marilyn Foster-Nemec, represented by Bushnell, Caplan, Fielding and Maier, LLP (“Bushnell Caplan”), filed Case No. C-07-1310-MMC against Wells Fargo & Company, *et al.* (the “Foster-Nemec” action.);

WHEREAS, all four actions name Bank of America, N.A., Bank of America Corp., Capital One Financial Corp., Chase Bank USA, N.A., JP Morgan Chase & Company, Citibank, N.A., Citigroup Inc,<sup>3</sup> Washington Mutual, Inc., HSBC North America Holdings, Inc., HSBC Finance Corp., and Wells Fargo & Company as Defendants and are brought on behalf of all credit cardholders who have allegedly paid excessive late fees and/or over-limit fees during the Class Period;

<sup>1</sup> Andrew T. Piñon, Betty Simm, Cathy Simm, Sara Prentiss-Shaw, Audree Halas, David Brotman and Gwen Martin (the “Piñon” plaintiffs) are plaintiffs in *Piñon v. Bank of America, N.A.* No. C-07-0634-SBA (N.D. Cal.) (the “Piñon” action).

<sup>2</sup> Aaron Gonzales, Jeremy Donovan and July Connors.

<sup>3</sup> At least one of the complaints names Citibank (South Dakota), N.A. as a defendant instead of Citibank, N.A.

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3 WHEREAS, the actions pending before this Court present virtually identical factual and  
4 legal issues, as each action alleges violations of the same statutory and common law and each  
5 action names the same Defendants;

6 WHEREAS, because these actions are all based on the same facts and involve the same  
7 subject matter, the same discovery will be relevant to all lawsuits;

8 WHEREAS, all parties to the actions agree that consolidation will further the interest of  
9 justice by promoting judicial economy and efficiency, and prevent duplicative discovery and the  
10 risk of inconsistent adjudication;

11 WHEREAS, this Court has already issued an Order on March 12, 2007 finding the  
12 Brackley action related to the Piñon action;

13 WHEREAS, Plaintiffs in the Piñon, Brackley, Gonzalez, and Foster-Nemec actions  
14 (collectively, the "Plaintiffs") have informed Defendants of Plaintiffs' intention to file a  
15 consolidated complaint ("Consolidated Complaint") in this action by May 8, 2007;

16 WHEREAS, Defendants do not object to the filing of a consolidated complaint;

17 WHEREAS, the parties have agreed that, subject to the approval of the Court, the  
18 schedule set forth below should govern the initial proceedings in this case, unless otherwise  
19 ordered by the Court;

20 WHEREAS, this Court issued an Order in the Piñon action, dated March 21, 2007,  
21 setting an initial case management conference for May 30, 2007 in the Piñon and Brackley  
22 actions;

23 WHEREAS, the Court issued an order in the Gonzalez action, dated February 23, 2007,  
24 setting an initial case management conference for June 1, 2007;

25 WHEREAS, the Court issued an Order in the Foster-Nemec action, dated March 6, 2007,  
26 setting an initial case management conference for June 15, 2007; and

27 IT IS HEREBY STIPULATED AND AGREED, by all parties through their undersigned  
counsel, as follows:

1. Each of the related actions shall be consolidated for all purposes (the  
"Consolidated Action"). This Order shall apply to the Consolidated Action and to each case that

relates to the same subject matter that is subsequently filed in this Court or is transferred to this Court and is consolidated with the Consolidated Action.

2. Every pleading filed in this Action shall have the following caption:

	X	
	:	Civil Action No. C-07-0634-SBAC <u>CLASS</u>
In re LATE FEE AND OVER-LIMIT FEE	:	<u>ACTION</u>
LITIGATION	:	
This Document Relates To:	:	
ALL ACTIONS.	:	
	:	
	:	
	X	

3. Plaintiffs' Consolidated Complaint shall be filed no later than May 8, 2007. The parties further stipulate that it is unnecessary for the Defendants to file any Answers to the complaints already filed in the Piñon, Brackley, Gonzales, and Foster-Nemec actions.

4. If Defendants elect to answer the Consolidated Complaint, their Answers shall be filed no later than July 13, 2007.

5. If Defendants elect to move in response to the Consolidated Complaint, their motion(s) shall be filed no later than July 13, 2007.

6. Plaintiffs shall file their response(s) to any motion(s) no later than September 14, 2007.

7. Defendants shall file their reply papers in further support of any motion(s) no later than October 19, 2007.

8. The hearing on defendants' motion(s) in response to the Consolidated Complaint shall be on December 4, 2007 at 1:00 p.m.

9. The parties shall conduct a discovery planning conference under Federal Rule of Civil Procedure 26(f) at least 21 days before any Case Management Conference with the Court, without prejudice to either party seeking further relief, including a stay of discovery, from the Court at the Case Management Conference.

10. The Court shall conduct a telephonic Case Management Conference for the Consolidated Action on June 12, 2007 at 2:30 p.m. Plaintiff will initiate the teleconference and have all parties on the line. All prior Case Management Conferences set forth in the Piñon, Brackley, Gonzalez, and Foster-Nemec actions are hereby vacated.

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DATED: April 26, 2007  
STIPULATED AND AGREED:

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
PATRICK J. COUGHLIN  
CHRISTOPHER M. BURKE  
ELISABETH A. BOWMAN  
MARY LYNNE CALKINS

s/CHRISTOPHER M. BURKE  
CHRISTOPHER M. BURKE

655 West Broadway, Suite 1900  
San Diego, CA 92101

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DATED: April 26, 2007

Telephone: 619/231-1058  
619/231-7423 (fax)

Co-Counsel for the Piñon Plaintiffs

HULETT HARPER STEWART, LLP  
DENNIS STEWART

s/DENNIS STEWART  
DENNIS STEWART

550 West C Street, Suite 1600  
San Diego, CA 92101  
Telephone: 619/338-1133  
619/338-1139 (fax)

Counsel for the Gonzales Plaintiffs

DATED: April 26, 2007

SCOTT + SCOTT LLP  
ARTHUR L. SHINGLER III

s/ARTHUR L. SHINGLER III  
ARTHUR L. SHINGLER III

600 B Street, Suite 1500  
San Diego, CA 92101  
Telephone: 619/233-4565  
619/233-0508 (fax)

Counsel for Plaintiff Celeste Brackley

DATED: April 26, 2007

BUSHNELL, CAPLAN, FIELDING  
& MAIER, LLP  
ALAN M. CAPLAN

s/ALAN M. CAPLAN  
ALAN M. CAPLAN

221 Pine Street, Suite 600  
San Francisco, CA 94104-2715  
Telephone: 415/217-3800  
415/217-3820 (fax)

Attorneys for Plaintiff Marilyn Foster-Nemec

DATED: April 26, 2007

MORRISON & FOERSTER LLP  
MARK P. LADNER  
STUART PLUNKETT

s/MARK P. LADNER

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DATED: April 26, 2007

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MARK P. LADNER  
(ADMITTED PRO HAC VICE)  
425 Market Street San Francisco, CA 94105-2482  
Telephone: 415/268-7000  
212/268-1290 (fax)  
Attorneys for Defendant Bank of America  
  
O'MELVENY & MYERS LLP ANDREW J.  
FRACKMAN MICHAEL TUBACH

s/ANDREW J. FRACKMAN  
ANDREW J. FRACKMAN (ADMITTED PRO HAC VICE)  
Embarcadero Center West 275 Battery Street  
San Francisco, CA 94111-3305  
Telephone: 415/984-8700  
415/984-8701 (fax)  
Attorneys for Defendants Capital One  
  
WILMERHALE CHRISTOPHER R.  
LIPSETT WILLIAM J. KOLASKY

s/CHRISTOPHER R. LIPSETT  
CHRISTOPHER R. LIPSETT (ADMITTED PRO HAC  
VICE)  
1117 California Avenue Palo Alto, CA 94304  
Telephone: 650/858-6000  
650/858-6100 (fax)  
Attorneys for Defendant Chase  
  
SIDLEY AUSTIN LLP DAVID F. GRAHAM ERIC  
H. GRUSH T. ROBERT SCARBOROUGH

s/DAVID F. GRAHAM  
DAVID F. GRAHAM  
555 California Street  
Suite 2000  
San Francisco, CA 94104  
Telephone 415/772-1200  
415/772-7400 (fax)  
Attorneys for Defendant Citibank (South  
Dakota), N.A. (incorrectly named as Citibank,  
N.A.) and Citigroup Inc

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DATED: April 26, 2007

HELLER EHRMAN LLP  
BRIAN P. BROSNAHAN  
JONATHAN P. HAYDEN

\_\_\_\_\_  
s/BRIAN P. BROSNAHAN  
BRIAN P. BROSNAHAN

333 Bush Street  
San Francisco, CA 94111  
Telephone: 415/772-6302  
415/772-6268 (fax)

Attorneys for Defendant Washington Mutual  
Bank (incorrectly named as Washington Mutual,  
Inc.)

DATED: April 26, 2007

STROOCK & STROOCK LLPJULIA B. STRICKLAND

\_\_\_\_\_  
s/JULIA B. STRICKLAND  
JULIA B. STRICKLAND

2029 Century Park EastLos Angeles, CA 90067-  
3086Telephone: 310/556-5800310/556-5959  
(fax)

Attorneys for Defendant HSBC

DATED: April 26, 2007

COVINGTON & BURLING LLP  
SONYA D. WINNER  
ANITA FERN STORK  
DAVID M. JOLLEY

\_\_\_\_\_  
s/SONYA D. WINNER  
SONYA D. WINNER

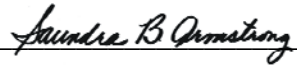
One Front Street  
San Francisco, CA 94111  
Telephone: 415/591-6000  
415/591-6091 (fax)

Attorneys for Defendants Wells Fargo &  
Company

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DATED: April 30, 2007

IT IS SO ORDERD.

  
\_\_\_\_\_  
Hon. Sandra Brown Armstrong  
United States District Judge

G:\Sbalc2\Jon\Relate Cases\07-0634 Pinon v Bank of America (Stip to Relate and set deadlines).DOC

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List. I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 26, 2007.

s/CHRISTOPHER M. BURKE  
CHRISTOPHER M. BURKE

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101-3301  
Telephone: 619/231-1058  
619/231-7423 (fax) E-mail:  
ChrisB@LerachLaw.com